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10/723,687	11/26/2003	Lawrence E. Ploetz	136098SV/YOD GEMS:0255	8921
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GE HEALTHCARE c/o FLETCHER YODER, PC P.O. BOX 692289 HOUSTON, TX 77269-2289			YEN, SYLING	
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Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary

Application No.

10/723,687

Applicant(s)

PLOETZ ET AL.

Examiner

SYLING YEN

Art Unit

2166

Period for Reply -- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 16 June 2009.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-10 and 12-22 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-10 and 12-22 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☐ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☐ Information Disclosure Statement(s) (PTO/5508)
- 4) ☐ Interview Summary (PTO-413)
- 5) ☐ Notice of Informal Patent Application
- 6) ☐ Other: _____
- Paper No(s)/Mail Date _____

DETAILED ACTION

Continued Examination under 37 CFR 1.114

1. A request for continued examination under 37 CFR 1.114, including the fee set forth in 37 CFR 1.17(e), was filed in this application after final rejection. Since this application is eligible for continued examination under 37 CFR 1.114, and the fee set forth in 37 CFR 1.17(e) has been timely paid, the finality of the previous Office action has been withdrawn pursuant to 37 CFR 1.114. Applicant's submission filed on June 16, 2009 has been entered.
2. This action is responsive to the communication filed on June 16, 2009. Claims 1, 9-10, 13-15, 17-18 and 21 have been amended. Claim 11 has been cancelled. Claims 1-10 and 12-22 are pending.

Claim Objections

3. Claims 1 and 18 are objected because of use of the term "*operable to*" in line 3 suggests an option that it may or not happen. Appropriate correction is required.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(a) the invention was known or used by others in this country, or patented or described in a printed publication in this or a foreign country, before the invention thereof by the applicant for a patent.

5. Claims 1-10 and 13-22 are rejected under 35 U.S.C. 102(a) as being anticipated by Babula (US 2003/0061071 A1 hereinafter, "Babula").
6. With respect to claim 1,

Babula discloses **a system for automatically providing a user with at least one potential solution to a problem associated with a medical device** (Babula paragraphs 0001, 0009 and 0039 e.g. making problem and solution information readily available to a system user, for easily searching such information, and for transmitting search results to the diagnostic system [as providing a user with at least one potential solution to a problem associated with a medical device], such as a scanner console or departmental PC where the user can then implement them; and the solutions may then be downloaded or transmitted automatically or upon request by the institution; and an automated service unit 136 may also be included in the service facility for automatically responding to certain service requests [as automatically providing]), **comprising:**

a server system operable to receive data automatically transmitted from a medical device (Babula paragraphs 0015 and 0029 e.g. FIG. 6 is an exemplary user interface page incorporated in the diagnostic system for placing service requests, and sending and receiving service data between the diagnostic system and a remote service facility [as a server system (e.g. a remote service facility) operable to receive data transmitted from a medical device (e.g. the diagnostic system)]; and problem-solution information exchanges may be completely automated for locating information needed to address specific problems or questions encountered by the user [as to receive automatically transmitted from a medical device]), **the server system comprising:**

a first database containing historic data (Babula paragraphs 0032 and 0042 e.g. at least one local service database 102 is provided for accessing problem-solution information, verifying license and contract arrangements, storing service record files, log files, and so forth); **and historic log information** [as a first database containing historic data]) **for a plurality of medical devices related to the medical device** (Babula paragraphs 0024-0026 and Fig. 1 e.g. MRI system 14, CT system 16, and ultrasound system 18 [as a plurality of medical devices] in Fig. 1);

a second database containing a plurality of solutions to problems associated with the plurality of medical devices (Babula paragraph 0032 e.g. In the diagram of FIG. 2, operator workstations 86 are coupled to the processing system, as are remote databases or computers 88, including the problem-solution database [as a second database containing a plurality of solutions to problems with the plurality of medical devices]. In addition, at least one local service database 102 is provided for accessing problem-solution information, verifying license and contract arrangements, storing service record files, log files, and so forth); **and**

an application service provider that directs the server system to use the data from the medical device to automatically search the first database for historic data for the medical device (Babula paragraphs 0032 and 0029 e.g. processing system 84 [as the server system] receives and processes the service requests and data [as to use the data from the medical device], and interfaces with additional service components, both at the service facility and remote from the facility ... at least one local service database 102 is provided for accessing problem-solution

information, verifying license and contract arrangements, storing service record files, log files, and so forth [as automatically search the first database for historical data for the medical device], and problem-solution information exchanges may be completely automated for locating information [as to automatically search the first database] needed to address specific problems or questions encountered by the user) **and to automatically search the second database for at least one potential solution to a problem associated with the medical device using the data from the medical device and the historic data for the medical device** (Babula paragraph 0032 and Fig. 2 e.g. processing system 84 [as the server system] receives and processes the service requests and data [as to use the data from the medical device], and interfaces with additional service components, both at the service facility and remote from the facility. In the diagram of FIG. 2, operator workstations 86 are coupled to the processing system, as are remote databases or computers 88, including the problem-solution database [as search the second database for at least one potential solution to a problem associated with the medical device]. In addition, at least one local service database 102 is provided for accessing problem-solution information, verifying license and contract arrangements, storing service record files, log files, and so forth [as using the historic data for the medical device]).

7. With respect to claim 2,

Babula further discloses **wherein the application service provider directs the server system to use the data from the medical device to automatically search the**

first database for keywords (Babula paragraph 0008 e.g. entering key words and phrases for a query) **associated with the medical device.**

8. With respect to claim 3,

Babula further discloses **wherein the application service provider directs the server system to automatically search the second database for at least one potential solution to a problem associated with the medical device using the keywords** (Babula paragraph 0052 e.g. summarizes the key words and phrases that the user entered for the search as well as the number solutions located and the status of the search) **obtained from the first database and the data from the medical device.**

9. With respect to claim 4,

Babula further discloses **wherein the application service provider directs the server system to automatically perform the searches of the first database and the second database in response to a service request** (Babula paragraph 0032 e.g. processing system 84 receives and processes the service requests and data) **transmitted to the server system.**

10. With respect to claim 5,

Babula further discloses **wherein the service request is transmitted to the server system from the medical device** (Babula paragraph 0014 e.g. FIG. 6 is an exemplary user interface page incorporated in the diagnostic system for placing service requests).

11. With respect to claim 6,

Babula further discloses **wherein the server system transmits** (Babula paragraph 0033 e.g. Such web pages permit problem queries and service requests to be composed and transmitted to the remote service facility, and facilitate the exchange of problem-solution data, messages) **the at least one potential solution to a problem associated with the medical device to the medical device.**

12. With respect to claim 7,

Babula further discloses **wherein the service request is transmitted to the server system from a remote computer** (Babula paragraph 0043 e.g. Such applications may permit the field service engineer to address service requests at the diagnostic system site, or remote from the site as required, and transmit service messages and updates via the remote field service unit).

13. With respect to claim 8,

Babula further discloses **wherein the server system transmits the at least one potential solution to a problem associated with the medical device to the remote computer** (Babula paragraph 0027 e.g. The management system may include a computer workstation or personal computer 72 coupled to the system controllers in an intranet configuration, in a file sharing configuration, a client/server arrangement, or in any other suitable manner. Moreover, management station 70 will typically include a monitor 74 for viewing system operational parameters, analyzing system utilization, and exchanging service requests and data between the facility 20 and the service facility 22).

14. With respect to claim 9,

Babula further discloses

automatically sending data from a remote (Babula paragraphs 0029 and 0043 e.g. problem-solution information exchanges may be completely automated for locating information needed to address specific problems or questions encountered by the user; and Such applications may permit the field service engineer to address service requests at the diagnostic system site, or remote from the site as required, and transmit service messages and updates via the remote field service unit) **medical device to a service center comprising a database of potential solutions to a problem associated with at least one remote medical device;**

automatically searching the database of potential solutions for at least one potential solution to a problem associated with the remote medical device in response to one of a request for service and the data from the remote medical device (Babula paragraph 0047 and Fig. 7 e.g. With the system state remaining at its condition just prior to accessing the service request page, image data files, log files, error files, and so forth may be identified, captured, stored and transmitted to the service facility for evaluation of potential problems in the diagnostic system), **comprising automatically searching a database comprising historic data for a plurality of medical devices related to the remote medical device for keywords** (Babula paragraph 0008 e.g. entering key words and phrases for a query) **associated with the remote medical device for use in searching the database of potential solutions; and**

sending the at least one potential solution to a problem associated with the remote medical device from the service center to a service provider via a communications network (Babula paragraph 0039 e.g. other network or communications schemes may be provided for enabling the service facility to communicate and exchange data and messages with diagnostic systems and remote service units).

15. With respect to claim 10,

Babula further discloses **wherein sending a request for service of a remote medical device comprises sending data to enable the service center to identify** (Babula paragraph 0055 e.g. This data preferably includes an identification of the system and/or system configuration to facilitate addressing the inquiry, such as to provide system-specific solutions) **the remote medical device from a plurality of remote medical devices.**

16. With respect to claim 13,

The limitations therein have substantially the same scope as claim 9 because claim 13 is a system claim for implementing those methods of claim 9. Therefore claim 13 is rejected for at least the same reasons as claim 9.

17. With respect to claim 14,

Babula further discloses **a processor-based device** (Babula paragraph 0044 e.g. Finally, the field service units may comprise personal computers or laptop computers of any suitable processor platform).

18. With respect to claim 15,

Babula further discloses **programming instructions to enable the processor-based device to automatically perform a search of a database of medical device data in response to the data automatically transmitted** (Babula paragraphs 0009, 0029 and 0042 e.g. enables the operations personnel to submit a problem query to the service facility and to search the service facility library; and historic log information; and problem-solution information exchanges may be completely automated for locating information needed to address specific problems or questions encountered by the user) **from the remote medical device.**

19. With respect to claim 16,

Babula further discloses **programming instructions to enable the processor-based device to transmit results of the search of the database of solutions to medical device problems to a service provider via the network** (Babula paragraph 0039 e.g. other network or communications schemes may be provided for enabling the service facility to communicate and exchange data and messages with diagnostic systems and remote service units).

20. With respect to claim 17,

The limitations therein have substantially the same scope as claim 14 because claim 17 is a computer program claim for implementing those steps of claim 14. Therefore claim 17 is rejected for at least the same reasons as claim 14.

21. With respect to claims 18-19,

The limitations therein have substantially the same scope as claims 1-3. Therefore claims 18-19 are rejected for at least the same reasons as claims 1-3.

22. With respect to claim 20,

Babula further discloses **comprising programming instructions to enable the service provider to store the results** (Babula paragraph 0001 e.g. transmitting search results to the diagnostic system, such as a scanner console or departmental PC where the user can then implement them) **of the keyword search of the second database at the medical device.**

23. With respect to claim 21,

Babula further discloses **automatically providing the system with data to enable the system to identify a category** (Babula paragraphs 0023, 0029 and 0054 e.g. Service requests and data transmitted between the systems and the service facility include data for identifying the type and modality of the serviced system, as well as data specifically adapted to the system modality and model; and the various service requests may be categorized by type, and associated with specific contract types, subscriber services, licenses, and so forth; and problem-solution information exchanges may be completely automated for locating information needed to address specific problems or questions encountered by the user) **of medical devices that includes the specific medical device.**

24. With respect to claim 22,

Babula further discloses **wherein the application service provider directs the server system to automatically search the second database for at least one potential solution to a problem associated with the medical device** (Babula paragraph 0029 e.g. problem-solution information exchanges may be completely

automated for locating information needed to address specific problems or questions encountered by the user) **using results obtained from the search of the first database and the data from the medical device** (Babula paragraph 0047 and Fig. 7 e.g. With the system state remaining at its condition just prior to accessing the service request page, image data files, log files, error files, and so forth may be identified, captured, stored and transmitted to the service facility for evaluation of potential problems in the diagnostic system).

Claim Rejections - 35 USC § 103

25. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

26. This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

27. Claim 12 is rejected under 35 U.S.C. 103(a) as being obvious by Babula as applied to claims 1-10 and 13-22 in view of Schramm-Apple et al (U.S. 2003/0217159 A1 hereinafter, "Schramm-Apple").

28. With respect to claim 12,

Although Babula substantially teaches the claimed invention, Babula does not explicitly indicate the capability of **sending an e-mail message** (Schramm-Apple paragraphs 0014 and 0083 e.g. learning about medical devices; e.g., e-mail questions and answers,) **containing the at least one potential solution to a problem associated with the remote medical device** (Schramm-Apple paragraphs 0014 and 0083 e.g. medical devices) **to the service provider**.

Schramm-Apple teaches the limitations as stated above.

It would have been obvious to one of ordinary skill in the art of medical device management, at the time of the present invention, having the teachings of Babula and Schramm-Apple before him/her, to modify the data categorization system of Babula, wherein the medical device management system would include the teachings of Schramm-Apple because that would have allowed the medical device management system to provide extensive information to physicians and healthcare providers electronically (Schramm-Apple paragraph 0032).

Response to Argument

29. On pages 8-9, Applicant argues that:

Rejection under 35 U.S.C. § 102

In the Office Action, the Examiner rejected claims 1-10 and 13-22 under 35 U.S.C. § 102(a) as anticipated by Babula et al., U.S. Publication No. 2003/0061071. Applicants respectfully request withdrawal of this rejection.

Omitted Features of Independent Claims 1 and 18

Turning now to the present claims, the Babula reference fails to disclose each element of independent claims 1 and 18. For instance, independent claim 1 recites "a server system operable to receive data automatically transmitted from a medical device." (Emphasis added). Independent claim 18 recites similar subject matter.

In contrast, the Babula reference only appears to disclose enabling "operations personnel to submit a problem query to the service facility and to search the service facility library." Babula, paragraph 0009 (emphasis added). For example, in the Final Office Action mailed on March 16, 2009, the Examiner contended that Babula teaches "a server system operable to receive data from a medical device" because paragraph 0015 and FIG. 6 of Babula disclose "an exemplary user interface page..., for placing service requests, and sending and receiving service data." Final Office Action, page 3. However, because Babula teaches a user interface for initiating contact with the remote service facility, it does not appear to disclose automatically transmitting data from a medical device. Because the Babula reference fails to disclose such an element, the cited reference fails to anticipate independent claims 1 and 18.

Examiner disagrees because:

Babula discloses **a server system operable to receive data automatically transmitted from a medical device** (Babula paragraphs 0015 and 0029 e.g. FIG. 6 is

an exemplary user interface page incorporated in the diagnostic system for placing service requests, and sending and receiving service data between the diagnostic system and a remote service facility [as a server system (e.g. a remote service facility) operable to receive data transmitted from a medical device (e.g. the diagnostic system)]; and problem-solution information exchanges may be completely automated for locating information needed to address specific problems or questions encountered by the user [as to receive automatically transmitted from a medical device]).

The disclosures reasonably describe the argued limitation of "a server system operable to receive data automatically transmitted from a medical device".

Further, the following is a quotation of MPEP 2144.04:

III. AUTOMATING A MANUAL ACTIVITY

In re Venner, 262 F.2d 91, 95, 120 USPQ 193, 194 (CCPA 1958) (Appellant argued that claims to a permanent mold casting apparatus for molding trunk pistons were allowable over the prior art because the claimed invention combined "old permanent-mold structures together with a timer and solenoid which automatically actuates the known pressure valve system to release the inner core after a predetermined time has elapsed." The court held that broadly providing an automatic or mechanical means to replace a manual activity which accomplished the same result is not sufficient to distinguish over the prior art.).

Accordingly, the rejection of claims 1 and 18 under 35 U.S.C. 102(a) as being anticipated by Babula is proper.

30. On pages 9-10, the argument of claims 9, 13 and 21 is directed to the similar argument of claim 1 or 18 which has been addressed above.

31. On page 10, the argument of claims 14 and 17 is directed to the similar argument of claim 1 or 18 which has been addressed above.

32. On page 11, the argument of claim 12 is directed to the similar argument of claim 9 which has been addressed above.

Conclusion

The prior art made of record, listed on form PTO-892, and not relied upon, if any, is considered pertinent to applicant's disclosure.

33. The examiner requests, in response to this office action, support be shown for language added to any original claims on amendment and any new claims. That is, indicate support for newly added claim language by specifically pointing to page(s) and line no(s) in the specification and/or drawing figure(s). This will assist the examiner in prosecuting the application.

34. When responding to this office action, Applicant is advised to clearly point out the patentable novelty which he or she thinks the claims present, in view of the state of the art disclosed by the reference cited or the objections made. He or she must also show how the amendments avoid such references or objections See 37 CFR 1.111(c).

Any inquiry concerning this communication or earlier communications from the examiner should be directed to SyLing Yen whose telephone number is 571-270-1306. The examiner can normally be reached on Mon-Fri 8:30am - 5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Hosain Alam can be reached on 571-272-3978. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

SyLing Yen
Examiner
Art Unit 2166

August 28, 2009

/SyLing Yen/

Examiner, Art Unit 2166